

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FELIPA CRUZ,

Plaintiff,

v.

HOBBY LOBBY STORES, INC.

Defendant.

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**CIVIL ACTION NO. _____
JURY TRIAL DEMANDED**

**DEFENDANT HOBBY LOBBY STORES, INC.'S
INDEX OF MATTERS BEING FILED**

Defendant HOBBY LOBBY STORES, INC., hereby filed this Index of all documents
filed in State Court Action:

A. Index of Documents:

- (1) Plaintiff's Original Petition, filed on August 19, 2022;
- (2) Process Request, filed on August 19, 2022;
- (3) Return of Service, filed on August 24, 2022;
- (4) Defendant Hobby Lobby Stores, Inc.'s Original Answer and to Plaintiff's Original Petition and Demand for a Jury Trial, filed on September 16, 2022;
- (5) Defendant Hobby Lobby Stores, Inc.'s Objection to Plaintiff's Rule 193.7 Notice of Intent, filed on September 16, 2022; and
- (6) Case Sheet.

Respectfully submitted,

MAYER LLP

2900 North Loop West, Suite 500
Houston, Texas 77092
713.487.2000 / F: 713.487.2019

By: /s/ Douglas M. Walla

Douglas M. Walla
State Bar No. 20759900
E-Mail: dwalla@mayerllp.com
-and-

Robin R. Gant
State Bar No. 24069754
E-Mail: rgant@mayerllp.com
750 North St. Paul Street, Suite 700
Dallas, Texas 75201
214.379.6900 / F: 214.379.6939

***Attorneys for Defendant
Hobby Lobby Stores, Inc.***

CERTIFICATE OF SERVICE

The undersigned does hereby certify that on September 23, 2022, the foregoing *Defendant Hobby Lobby Stores, Inc.'s Index of Matters Being Filed* was electronically filed, as required by the United States District Court for the Southern District of Texas, using the Court's CM/ECF filing system, which will provide notice and a copy of this document, with attachments, to the following, who are indicated to be registered ECF filers in the United States District Court for the Southern District of Texas:

John K. Zaid
Ryan E. Bill
JOHN K. ZAID & ASSOCIATES
16951 Feather Craft Lane
Houston, Texas 77058

***Attorneys for Plaintiff
Felipa Cruz***

- ☐ E-Mail (service@jkz.legal)
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight Mail
- ☒ CM/ECF
- ☐ Regular, First Class Mail
- ☐ Certified Mail/Return Receipt Requested

Douglas M. Walla
Douglas M. Walla

CAUSE NO. _____

FELIPA CRUZ*Plaintiff,*

v.

HOBBY LOBBY STORES, INC.*Defendant.*§
§
§
§
§
§
§**IN THE DISTRICT COURT****HARRIS COUNTY, TEXAS**_____**JUDICIAL DISTRICT****PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, FELIPA CRUZ (hereinafter referred to as "Plaintiff"), complaining of Defendant, HOBBY LOBBY STORES, INC. and would respectfully show unto this Honorable Court as follows:

DISCOVERY

1. Plaintiff intends to conduct discovery pursuant to Rule 190 of the Texas Rules of Civil Procedure, Level Three (3).

PARTIES

2. Plaintiff, FELIPA CRUZ, is a resident of Harris County, Texas.

3. Defendant, HOBBY LOBBY STORES, INC. (hereinafter referred to as "Defendant"), is a corporation doing business in the State of Texas and may be served with process by serving its registered agent, Corporation Service Company D/B/A CSC– Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

VENUE

4. Venue is proper in Harris County, Texas, pursuant to §15.002(a)(1) of the TEXAS CIVIL PRACTICES AND REMEDIES CODE because Plaintiff's causes of action accrued in whole or in part in this county.

BACKGROUND FACTS

5. This cause of action is brought under and by virtue of the laws of the State of Texas to recover those damages which Plaintiff is justly entitled to receive as reasonable medical expenses, pain and suffering, physical impairment, disfigurement and mental anguish, which Plaintiff has suffered, and in reasonable probability, will continue to suffer in the future, resulting directly and proximately from personal injuries suffered in an incident that occurred on or about November 28, 2020.

6. On or about November 28, 2020, Plaintiff was seriously injured on the premises located at 20325 US-59 Humble, TX 77338. Upon information and belief, said store is owned, managed, and/or controlled by Defendant. On that date, Plaintiff, who was an invitee on the premises, was seriously injured after she fell due to liquid substance that was negligently left on the floor creating a dangerous condition. This substance caused Plaintiff to slip and fall resulting in serious injuries for which Plaintiff hereby complains.

7. At the time of the incident in question, Defendant knew or should have known of the unreasonably dangerous condition and neither corrected nor warned Plaintiff of it. Plaintiff did not have any knowledge of the dangerous condition and could not have reasonably been expected to discover it. Defendant either created the condition and/or failed to correct the condition or to warn Plaintiff about the dangerous condition, which constituted negligence, and such negligence was a proximate cause of the occurrence in question and Plaintiff's resulting injuries.

NEGLIGENCE OF DEFENDANT HOBBY LOBBY STORES, INC.

8. Defendant is liable to Plaintiff under the theory of premises liability and negligence. On the above date, Defendant, upon information and belief, were the owners, lessors and managers of the premises where this incident occurred, which created a duty upon them to ensure that the

premises are reasonably safe and free from any dangerous conditions that could harm someone such as Plaintiff. As the owners, lessors and managers of the premises, Defendant was negligent by not resolving the dangerous condition prior to this incident occurring.

9. Plaintiff would show that the following acts, omissions and/or conditions by Defendant was a direct and proximate cause of Plaintiff's damages:

- a. Defendant allowed for and created an unreasonably dangerous condition on the premises;
- b. Defendant failed to warn of the dangerous condition prior to it occurring;
- c. Defendant was negligent in failing to properly maintain the premises prior to this incident occurring;
- d. Defendant was negligent in not notifying the proper parties, in a timely fashion prior to this incident occurring, of the dangerous conditions so that steps could be taken to remedy the condition;
- e. Defendant was negligent in training their employees;
- f. Defendant failed to properly supervise their employees;
- g. Defendant was negligent in failing to properly inspect the premises prior to this incident occurring;
- h. Defendant failed to use ordinary care to reduce or eliminate an unreasonably dangerous condition which Defendants knew about, or in the exercise of reasonable care, should have known about;
- i. Defendant failed to properly maintain a safe environment;
- j. Defendant was negligent in allowing and creating an obstruction to safe walking;
- k. Defendant was negligent in allowing and creating an impediment to safe walking;
- l. Defendant was negligent in allowing and creating a hinderance to safe walking;
- m. Defendant was negligent in allowing and creating an interference to safe walking;
- n. Defendant was negligent in allowing and creating an unsafe walking condition;

- o. Defendant failed to act as a reasonably prudent person would under the same or similar conditions;
- p. Defendant failed to manage the premises, where this incident occurred, in a reasonable manner; and
- q. Other acts deemed negligent.

10. Each of the foregoing acts and omissions, taken singularly or in combination constituted negligence and was a proximate cause of Plaintiff's injuries and damages as set forth below.

11. Defendant was also negligent in that it failed to act as a reasonably prudent premise owner would act in the same or similar situation.

DAMAGES

12. As a direct and proximate result of the occurrence made the basis of this action, Plaintiff FELIPA CRUZ suffered personal injuries. Further, to the extent, if any, that Plaintiff suffered from any pre-existing condition, if any, the incident made the basis of this lawsuit aggravated the pre-existing condition to the point that it became symptomatic or more symptomatic than it was before the collision. The negligence of Defendant's breach of its non-delegable duty of a high degree of care has proximately caused Plaintiff to suffer the following elements of damages in the past and Plaintiff will, in all reasonable probability, continue to suffer such elements of damages in the future:

- a) Medical care and expenses;
- b) Physical pain and suffering and mental anguish;
- c) Physical impairment;
- d) Disfigurement;
- e) Lost wages

f) Loss of earning capacity; and/or

g) All other relief, at law or equity, to which Plaintiff may be entitled

Plaintiff has suffered damages from Defendant's wrongful conduct described herein. As discussed in this Petition, Plaintiff has suffered not only easily quantifiable economic damages, but also other forms of damages such as mental anguish and pain and suffering and will likely continue to suffer these damages in the future. Both the Constitution of the United States and the Constitution of the State of Texas provide Plaintiff with the inalienable fundamental right to have her case heard and decided by a jury of her peers at trial. In accordance with these fundamental rights it will ultimately be the responsibility and province of a jury of Plaintiff's peers to decide the economic value of the damages Plaintiff suffered as a result of Defendant's wrongful actions and omissions which form the basis of this lawsuit. However, as Plaintiff is required by law to state the maximum amount of damages she is seeking, Plaintiff believes that when the totality of her damages are considered, along with the wrongful nature of Defendant's conduct, it is possible that a jury may ultimately decide that Plaintiff's damages exceed three million dollars but it is unlikely that a jury would decide that Plaintiff's damages exceed four million. Plaintiff seeks monetary relief of over \$3,000,000.00 but not more than \$4,000,000.00 including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees and judgment for all other relief to which Plaintiff is justly entitled. Plaintiff sues for a sum within the jurisdictional limits of the Court to be determined by the jury in its sole discretion.

JURY DEMAND/TRIAL SETTING

13. Plaintiff respectfully requests a trial by jury and that the Court set this case for a trial date that is within ninety (90) days after the discovery period in Rule 190.2(b)(1) ends.

RULE 193.7 NOTICE

14. You are hereby given notice pursuant to TEXAS RULES OF CIVIL PROCEDURE 193.7 of Plaintiff's intent to offer any and all documents produced by Defendant in response to any discovery request as evidence in any pretrial proceeding or at trial.

REQUEST FOR DISCLOSURES

15. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant disclose within fifty (50) days of service of this request, the information or material described therein. Plaintiff further requests that Defendant answer separately.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendant, HOBBY LOBBY STORES, INC. be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for Plaintiff against Defendant, jointly and severally, for damages in an amount within the jurisdictional limits of the Court, together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate; costs of court; and such other and further relief to which Plaintiff may be entitled at law or in equity.

(Signature Block on Next Page)

Respectfully submitted,

JOHN K. ZAID & ASSOCIATES

By: 

JOHN K. ZAID

State Bar No. 24037764

Email: john@zaidlaw.com

RYAN E. BILL

State Bar No. 24087038

Email: ryan@zaidlaw.com

16951 Feather Craft Lane

Houston, Texas 77058

Telephone: (281) 333-8959

Facsimile: (888) 734-1236

E-service: service@jksz.legal

ATTORNEYS FOR PLAINTIFF

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Ashley Hernandez on behalf of John Zaid

Bar No. 24037764

ashley@zaidlaw.com

Envelope ID: 67495316

Status as of 8/22/2022 8:17 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
John Zaid		service@jkz.legal	8/19/2022 5:05:06 PM	SENT
Ryan Bill		service@jkz.legal	8/19/2022 5:05:06 PM	SENT



Marilyn Burgess

HARRIS COUNTY DISTRICT CLERK

201 Caroline | P.O. Box 4651 | Houston, Texas 77210-4651 | 832-927-5800 | www.hcdistrictclerk.com

8/19/2022 5:05:06 PM
Marilyn Burgess - District Clerk
Harris County
Envelope No: 67495316
By: CHAMBERS, WANDA R
Filed: 8/19/2022 5:05:06 PM

Request for Issuance of Service

CASE NUMBER: _____ CURRENT COURT: _____

Name(s) of Documents to be served: Plaintiff's Original Petition _____

FILE DATE: August 19th, 2022 _____ Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: HOBBY LOBBY STORES, INC. _____

Address of Service: 211 E. 7th Street, Suite 620 _____

City, State & Zip: Austin, Texas 78701-3218 _____

Agent (if applicable) Corporation Service Company D/B/A CSC- Lawyers Incorporating Service Company ____

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- | | | | |
|--|---|---|---|
| <input checked="" type="checkbox"/> Citation | <input type="checkbox"/> Citation by Posting | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Citation Scire Facias | Newspaper _____ | | |
| <input type="checkbox"/> Temporary Restraining Order | <input type="checkbox"/> Precept | <input type="checkbox"/> Notice | |
| <input type="checkbox"/> Protective Order | | | |
| <input type="checkbox"/> Secretary of State Citation (\$12.00) | <input type="checkbox"/> Capias (not by E-Issuance) | <input type="checkbox"/> Attachment (not by E-Issuance) | |
| <input type="checkbox"/> Certiorari | <input type="checkbox"/> Highway Commission (\$12.00) | | |
| <input type="checkbox"/> Commissioner of Insurance (\$12.00) | <input type="checkbox"/> Hague Convention (\$16.00) | <input type="checkbox"/> Garnishment | |
| <input type="checkbox"/> Habeas Corpus (not by E-Issuance) | <input type="checkbox"/> Injunction | <input type="checkbox"/> Sequestration | |
| <input type="checkbox"/> Subpoena | | | |
| <input type="checkbox"/> Other (Please Describe) _____ | | | |

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

- | | |
|--|--|
| <input type="checkbox"/> ATTORNEY PICK-UP (phone) _____ | <input type="checkbox"/> E-Issuance by District Clerk |
| <input type="checkbox"/> MAIL to attorney at: _____ | (No Service Copy Fees Charged) |
| <input type="checkbox"/> CONSTABLE | <i>Note: The email registered with EfileTexas.gov must be used to retrieve the E-Issuance Service Documents.</i> |
| <input type="checkbox"/> CERTIFIED MAIL by District Clerk | Visit www.hcdistrictclerk.com for more instructions. |
| <input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____ | |
| <input checked="" type="checkbox"/> OTHER, explain please send to service@jkz.legal _____ | |

Issuance of Service Requested By: Attorney/Party Name: John K. Zaid _____ Bar # or ID 24037764

Mailing Address: 16951 Feather Craft Lane, Houston, Texas 77508 _____

Phone Number: (281) 333-8959 _____

CAUSE NO. 202252035

COPY OF PLEADING PROVIDED BY PLT

RECEIPT NO: 974087
EML TRACKING NO: 74041886Plaintiff:
CRUZ, FELIPA

vs.

Defendant:

HOBBY LOBBY STORES INC

In The 080th
Judicial District Court of
Harris County, Texas
201 CAROLINE
Houston, Texas

CITATION CORPORATE

THE STATE OF TEXAS
County of Harris

To: HOBBY LOBBY STORES INC (A CORPORATION) BY SERVING ITS REGISTERED AGENT
CORPORATION SERVICE COMPANY (DBA CSC-LAWYERS INCORPORATING SERVICE COMPANY)
211 E 7TH STREET SUITE 620, AUSTIN TX 78701

Attached is a copy of: PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on August 19, 2022 in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may employ an attorney. If you or your Attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration date of 20 days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

This citation was issued on August 22, 2022, under my hand and seal of said court.

Issued at the request of:

ZAID, JOHN K
16951 FEATHER CRAFT LANE
HOUSTON, TX 77508
281-333-8959
Bar Number: 24037764

*Marilyn Burgess*

Marilyn Burgess, District Clerk

Harris County, Texas
201 CAROLINE Houston Texas 77002
(PO Box 4651, Houston, Texas 77210)

Generated By: WANDA CHAMBERS

AFFIDAVIT ATTACHED

Tracking Number: 74041886

CAUSE NUMBER: 202252035

PLAINTIFF: CRUZ, FELIPA

vs.

DEFENDANT: HOBBY LOBBY STORES INC

In the 080th

Judicial District Court of

Harris County, Texas

OFFICER - AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock ____ M. on the _____ day of _____, 20____. Executed at

(Address) _____
in

_____ County at o'clock ____ M. On the _____ day of _____, 20____, by

Delivering to _____ defendant, in person, a true copy of this Citation together with the accompanying _____ copy (ies) of the «Attachment». Petition attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____, 20.

Fees \$ _____

Affiant

By _____
Deputy

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, On this _____ day of _____, 20__.

Notary Public

RETURN OF SERVICE

State of TX

County of Harris

80th Judicial District Court

Case Number: 2022-52035

Plaintiff:

Felipa Cruz

vs.

Defendant:

Hobby Lobby Stores, INC.

For:

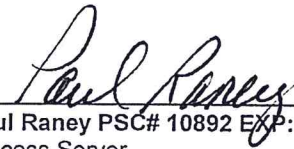
Zaid Law

Received by Bay Oaks Process, LLP on the 22nd day of August, 2022 at 12:02 pm to be served on **Hobby Lobby Stores Inc, 211 E 7th Street, Suite 620, Austin, Travis County, TX 78701.**

I, Paul Raney PSC# 10892 EXP: 5/31/2024, do hereby affirm that on the 24th day of August, 2022 at 10:38 am, I:

INDIVIDUALLY/PERSONALLY served by delivering a true copy of the **Citation, Plaintiff's Original Petition** with the date and hour of service endorsed thereon by me, to: **Neisha Gross** at the address of: **211 E 7th Street, Suite 620, Austin, Travis County, TX 78701**, and informed said person of the contents therein, in compliance with state statutes.

My name is Paul Raney, My Date of Birth is 10/18/1946 , and My Address is 1026 Clayton Lane, #4207, Austin, Texas 78723. I Declare Under Penalty of Perjury That The Foregoing is True and Correct. Executed in Travis County, State of Texas, on the 24th day of August, 2022.


Paul Raney PSC# 10892 EXP: 5/31/2024
Process Server

Bay Oaks Process, LLP
PO Box 5703
Pasadena, TX 77508
(281) 815-0191

Our Job Serial Number: BYO-2022001910

Automated Certificate of eService

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Ashley Hernandez on behalf of John Zaid

Bar No. 24037764

ashley@zaidlaw.com

Envelope ID: 67635499

Status as of 8/24/2022 4:57 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
John Zaid		service@jkz.legal	8/24/2022 4:50:10 PM	SENT
Ryan Bill		service@jkz.legal	8/24/2022 4:50:10 PM	SENT

CAUSE NO. 2022-52035

FELIPE CRUZ,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
HOBBY LOBBY STORES, INC.,	§	
	§	
<i>Defendant.</i>	§	80 th JUDICIAL DISTRICT

**DEFENDANT HOBBY LOBBY STORES, INC.'S
ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION
AND DEMAND FOR A JURY TRIAL**

Defendant, Hobby Lobby Stores, Inc., hereby files its Original Answer to Plaintiff's Original Petition and Demand for a Jury Trial as follows:

**I.
GENERAL DENIAL**

1. Defendant, Hobby Lobby Stores, Inc. denies each and every, all and singular, the material allegations contained within Plaintiff's pleadings and demands strict proof thereof.

**II.
JURY DEMAND**

2. In accordance with Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE, Defendant hereby demands a trial by jury and has tendered the applicable jury fee with this Answer.

**III.
PRAYER FOR RELIEF**

3. Based on all of the foregoing, Defendant, Hobby Lobby Stores, Inc., prays that

Plaintiff take nothing by her lawsuit, that Defendant go hence with its costs without delay, and for such other and further relief, both general and special, at law and in equity, to which Defendant is justly entitled.

Respectfully Submitted,

MAYER LLP

By: Robin R. Gant

Robin R. Gant
State Bar No. 24069754
E-Mail: rgant@mayerllp.com
750 North St. Paul Street, Suite 700
Dallas, Texas 75201
214.379.6900 / F: 214.379.6939
-and-
Douglas M. Walla
State Bar No. 20759900
E-Mail: dwalla@mayerllp.com
2900 North Loop West, Suite 500
Houston, Texas 77092
713.487.2000 / F: 713.487.2019

***Attorneys for Defendant
Hobby Lobby Stores, Inc.***

CERTIFICATE OF SERVICE

This is to certify that on the 16th day of September 2022, a true and correct copy of the foregoing document was forwarded to all counsel of record as required by the Texas Rules of Civil Procedure as indicated below:

John K. Zaid
Ryan E. Bill
JOHN K. ZAID & ASSOCIATES
16951 Feather Craft Lane
Houston, Texas 77058

***Attorneys for Plaintiff
Felipe Cruz***

- ☐ E-Mail (service@jkz.legal)
- ☐ ECM
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ E-Service Only
- ☒ E-Serve and File
- ☐ Regular, First Class Mail
- ☐ Certified Mail/Return Receipt Requested

Robin R. Gant
Robin R. Gant

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Gail Chatman on behalf of Robin Gant

Bar No. 24069754

gchatman@mayerllp.com

Envelope ID: 68329197

Status as of 9/16/2022 1:18 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Robin Gant		rgant@mayerllp.com	9/16/2022 11:11:38 AM	SENT
Doug MWalla		dwalla@mayerllp.com	9/16/2022 11:11:38 AM	SENT
Gail Chatman		gchatman@mayerllp.com	9/16/2022 11:11:38 AM	SENT
Stephanie Arms		sarms@mayerllp.com	9/16/2022 11:11:38 AM	SENT
John Zaid		service@jkz.legal	9/16/2022 11:11:38 AM	SENT
Ryan Bill		service@jkz.legal	9/16/2022 11:11:38 AM	SENT

CAUSE NO. 2022-52035

FELIPE CRUZ,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
	§	
HOBBY LOBBY STORES, INC.,	§	
	§	
<i>Defendant.</i>	§	80 th JUDICIAL DISTRICT

**DEFENDANT HOBBY LOBBY STORES, INC.'S
OBJECTIONS TO PLAINTIFF'S RULE 193.7 NOTICE OF INTENT**

HOBBY LOBBY STORES, INC.'s, ("Defendant") hereby files its Objections to Plaintiff's Rule 193.7 Notice of Intent and in support Defendant shows the Court as follows:

1. Plaintiff has filed a "Rule 193.7 Notice" stating that she hereby gives notice, pursuant to Tex. R. Civ. P. 193.7, of Plaintiff's intent to "offer any and all documents produced by Defendant in response to any discovery request as evidence in any pretrial proceeding or at trial.." (*See Plaintiff's Original Petition at p. 6, paragraph 14*).

2. Defendant objects to this blanket, nonspecific attempt to invoke the provisions of Rule 193.7 as a violation of both the spirit and the letter of the rule. Specifically, Rule 193.7 imposes upon a party the obligation, upon receipt of **actual notice** that a document will be used at trial, to object on grounds of authenticity or otherwise waive that objection. The Rule's use of the term "actual notice" has a meaning, which includes more than notice that the offering party may use any document produced by any party in the course of discovery in a case.

3. This reading of the Rule is reinforced by the “Comments” to the Rule, which provide that the triggering factor is not production, but instead is “the party’s actual awareness that the document will be used.” Additionally, the Comments indicate that the purpose of Rule 193 is to streamline and promote complete disclosure in discovery. (*See, generally*, Tex. R. Civ. P. 193, Comments.) If Plaintiff is permitted to take advantage of the self-authenticating nature of the Rule by making a blanket notice that all such documents will be used, it defeats the purpose of the Rule.

4. This reading is further supported by Texas case law under which courts assume that the Rule contains a specificity requirement. *See Merrell v. Wal-Mart Stores, Inc.*, 276 S.W.3d 117, 131 (Tex. App.—Texarkana 2008, no pet.) (“assuming, without deciding, the rule contains a specificity requirement . . .”).

5. Defendant objects then to Plaintiff’s “notice,” in that Plaintiff’s designation of all documents produced by Defendant, or any other party in this case, regardless of their source, is not “actual notice” as contemplated and required by the Rule.

6. Defendant further objects to the Plaintiff’s “notice” in that Plaintiff’s designation purports to impose upon Defendant the obligation to object to the authenticity of documents which have not yet been produced. The case is currently in its early stage, the parties have not yet begun the discovery process and Defendant should not be required to object to the authenticity of documents that have not yet been produced.

7. However, and out of an abundance of caution, Defendant responds to the substance of the “notice” by objecting to the authenticity of Plaintiff’s blanket designation of all documents produced by Defendant in discovery. As a whole, documents produced by Defendant will undoubtedly contain individual documents which Defendant does not have sufficient knowledge to authenticate. Thus, requiring Defendant to review all documents without actual knowledge that they may be used in the litigation places an unnecessary burden on Defendant that is not contemplated by Rule 193 and is counterproductive to the stated purpose of streamlining discovery and encouraging production of complete discovery.

8. Defendant therefore calls upon Plaintiff, to specifically identify all documents that Plaintiff intends to use at any proceeding, to provide Defendant with actual notice that such documents may be used at trial, and to allow Defendant an opportunity to object as provided under Rule 193.7.

9. Therefore, **HOBBY LOBBY STORES, INC.’S**, prays that the court sustain its objections to Plaintiff’s attempted blanket designation of all unidentified documents to be used at future proceedings in this case and order Plaintiff to instead identify the specific documents produced by Defendant that Plaintiff actually anticipates using in this litigation and for such other and further relief, both general and special, at law and in equity, to which this Defendant may show itself justly entitled.

Respectfully submitted,

MAYER LLP

750 North St. Paul Street, Suite 700
Dallas, Texas 75201
214.349.6900 / F: 214.379.6939

By: /s/ Robin R. Gant

Robin R. Gant
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Zach T. Mayer
State Bar No. 24013118
E-Mail: zmayer@mayerllp.com

***Attorneys for Defendant
Hobby Lobby Stores, Inc.***

CERTIFICATE OF SERVICE

This is to certify that on the September 16, 2022, a true and correct copy of the foregoing has been forwarded to all counsel of record as follows:

John K. Zaid
Ryan E. Bill
JOHN K. ZAID & ASSOCIATES
16951 Feather Craft Lane
Houston, Texas 77058

***Attorneys for Plaintiff
Felipe Cruz***

- ☐ E-Mail (service@jkz.legal)
- ☐ ECM
- ☐ Hand Delivery
- ☐ Facsimile
- ☐ Overnight Mail
- ☐ E-Service Only
- ☒ E-Serve and File
- ☐ Regular, First Class Mail
- ☐ Certified Mail/Return Receipt Requested

/s/ Robin R. Gant

Robin R. Gant

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Gail Chatman on behalf of Robin Gant

Bar No. 24069754

gchatman@mayerllp.com

Envelope ID: 68329031

Status as of 9/16/2022 11:24 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Robin Gant		rgant@mayerllp.com	9/16/2022 11:08:44 AM	SENT
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John Zaid		service@jkz.legal	9/16/2022 11:08:44 AM	SENT
Ryan Bill		service@jkz.legal	9/16/2022 11:08:44 AM	SENT

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CRUZ, FELIPA vs. HOBBY LOBBY STORES INC

9/19/2022

Cause: 202252035

CDI: 7

Court: 080

DOCUMENTS

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104077327	Defendant Hobby Lobby Stores, Inc.'s Objections to Plaintiff's Rule 193.7 Notice of Intent		09/16/2022	5
104081864	DEFENDANT'S ORIGINAL ANSWER		09/16/2022	3
103677827	CITATION CORPORATE: HOBBY LOBBY STORES INC:		08/24/2022	4
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